Supreme Court, U. S.
FILED
FEB 15 1979
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

SPRING TERM 1979

NO. 78-1147

MICHAEL RICHARD WILSON,

Petitioner,

vs.

BOARD OF GOVERNORS,
WASHINGTON STATE BAR ASSOCIATION,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Robert T. Farrell
Washington State Bar
Association
505 Madison Street
Seattle, Washington 98104

Counsel for respondent

IN THE

SUPREME COURT OF THE UNITED STATES

SPRING TERM 1979

NO. 78-1147

MICHAEL RICHARD WILSON,

Petitioner,

vs.

BOARD OF GOVERNORS,
WASHINGTON STATE BAR ASSOCIATION,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Robert T. Farrell
Washington State Bar
Association
505 Madison Street
Seattle, Washington 98104

Counsel for respondent

RELEVANT COURT RULES

WASHINGTON ADMISSION TO PRACTICE RULES, (APR), Rule 2:

A. Definitions

A "general applicant" means either (1) a graduate of an approved law school who does not qualify as an attorney applicant under Rule 3, or (2) a registered law clerk who has satisfactorily completed the course of study prescribed by these Rules.

An "approved law school" means a law school approved by the board of governors. The board of governors shall keep a list of approved law schools on file with the State Bar Association and the Clerk of the Supreme Court.

B. Qualifications

A general applicant, in order to be permitted to take the bar examination, must

1. present satisfactory proof of either (1) graduation from an approved law school, or (b) satisfactory completion of the course of study prescribed for a registered law clerk by these Rules... .

QUESTION PRESENTED FOR REVIEW

Were the constitutional rights of Michael R. Wilson violated when, as a graduate of a law school not approved by the American Bar Association, he was denied permission to take the Washington State bar examination under a rule that only graduates of ABA-approved law schools may be admitted to the bar of the State of Washington through examination?

STATEMENT OF THE CASE

Petitioner Michael R. Wilson applied to take the February, 1976 Washington State bar examination. His application was rejected, since it showed on its face that he had attended a law school not approved by the American Bar Association. Under rules adopted by the Washington Supreme Court, the Board of Governors of the Washington State Bar Association (respondent) has been given the authority to designate certain law schools as "approved law schools," graduation from which is a prerequisite for one wishing to take the bar examination as a general applicant. WASH. ADMISSION TO PRACTICE RULES, Rule 2A and B. The Board of Governors has long maintained a policy of approving only those law schools which are approved by the American Bar Association, rather than instituting a nationwide accreditation program of its own, or giving ad hoc consideration to individual applications.

Mr. Wilson challenged the refusal of the Board to allow him to take the bar examination, seeking, contrary to the

rule, an individualized evaluation of his legal training and his law school. The trial court granted the respondent's motion for summary judgment, and on appeal the Supreme Court of the State of Washington affirmed, approving the policy of the Board in approving only ABA-accredited schools.

ARGUMENT

This case presents no federal question of substance. The power of the states to prescribe educational qualifications for those who practice law within their boundaries has been consistently recognized and approved by this Court. See In re Griffiths, 413 U.S. 717, 722, 93 S.Ct. 2851, 37 L.Ed.2d 910 (1973); Law Students Civil Rights Research Council, Inc. v. Wadmond, 401 U.S. 154, 159-60, 91 S.Ct. 720, 27 L.Ed.2d 749 (1971); Baird v. State Bar of Arizona, 401 U.S. 1, 8, 91 S.Ct. 702, 27 L.Ed.2d 639 (1970); Spevack v. Klein, 385 U.S. 511, 523, 87 S.Ct. 625, 17 L.Ed.2d 574 (1967); Schware v. Board of Bar Examiners, 353 U.S. 232, 239, 77 S.Ct. 752, 11 L.Ed.2d 96 (1957). The requirement that a bar applicant must have attended a law school providing a high quality of education is clearly a reasonable measure to assure the competence of applicants for admission to the bar.

One method of assuring that bar applicants have attended a law school providing a high quality of education is to require graduation from a law school approved by the American Bar Association as a prerequisite for taking the bar examination. This is what the State of

Washington has done, believing the ABA to be a reliable accrediting body, and finding the alternatives--establishment of its own accreditation procedures or individual evaluation of the law school attended by every bar applicant--to be both staggeringly burdensome and probably no better.

Many challenges have been raised to requirements such as this in other states, both in state and federal court, and each and every one of these challenges has approved the policy of adopting the ABA list. See, e.g., Moore v. South Carolina, 447 F. Supp. 527 (D.S.C. 1977), aff'd, 577 F.2d 735 (4th Cir. 1978), cert. denied, ___U.S.___, 99 S.Ct. 574, ___L.Ed.2d___ (1978); Lombardi v. Tauro, 470 F.2d 798 (1st Cir. 1972), cert. denied, 412 U.S. 919, 93 S.Ct. 2734, 37 L.Ed.2d 145 (1973); Kadans v. Collins, 441 F.2d 657 (9th Cir. 1971), appeal dismissed, 404 U.S. 1007, 92 S.Ct. 672, 30 L.Ed.2d 656 (1972); Hackin v. Lockwood, 361 F.2d 499 (9th Cir. 1966), cert. denied, 385 U.S. 960, 87 S.Ct. 396, 17 L.Ed.2d 305 (1967); Harris v. Louisiana State Supreme Court, 334 F.Supp. 1289 (E.D. La. 1971); In re Application of Hansen, ___Minn.___, ___N.W.2d___ (1978); Appeal of Murphy, ___Pa.___, 393 A.2d 369 (Pa.S.Ct. 1978); In re Stephenson, 511 P.2d 136 (Alas. 1973); In re Schatz, 80 Wash.2d 604, 497 P.2d 153 (1972); In re Eisenson, 272 So.2d 486 (Fla. 1972); In re Batten, 83 Nev. 265, 428 P.2d 195 (Nev. 1967); In re Lorring, 75 Nev. 330, 340 P.2d 589 (1959); Henington v. State Board of Bar Examiners, 60 N.M. 393, 291 P.2d 1108 (1956); State ex rel. Ralston v. Turner, 141 Neb. 556, 4

N.W.2d 302 (1942); Rosenthal v. State Bar Examining Committee, 116 Conn. 409, 165 A. 211 (1933).

As the unanimity of the above cases strongly indicates, it simply is of no constitutional import that a state may choose to use the expertise of a particular body to assist it in its proper task of assuring the quality of its attorneys.

CONCLUSION

Since the issue presented by Michael R. Wilson's petition for writ of certiorari does not present any federal question of substance, respondent Board of Governors of the Washington State Bar Association respectfully requests that the petition be denied.

DATED this 12th day of February, 1979.

Respectfully submitted,

ROBERT T. FARRELL
Counsel for respondent